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STATE OF CALIFORNIA

Fish and Game Commission

April 11, 2012

TO ALL INTERESTED AND AFFECTED PARTIES:

This is to provide you with a copy of a continuation notice of proposed regulatory action relative to Section 7.50, Title 14, California Code of Regulations, relating to Klamath-Trinity Rivers salmon sport fishing.

Please note the date of the public hearing related to this matter and associated deadlines for receipt of written comments.

Mr. Curtis Milliron, Department of Fish and Game, Northern Region, phone (530) 225-2280, has been designated to respond to questions on the substance of the proposed regulations.

Sincerely,

Sherrie Fonbuena for
Sherrie Fonbuena
Associate Governmental Program Analyst

Attachment

LOS ANGELES COUNTY
2012 APR 24 PM 12:15
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BOARD OF SUPERVISORS
COMMISSION SERVICES

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5-23-12

TITLE 14. Fish and Game Commission
Notice of Proposed Changes in Regulations
(Continuation of California Notice Register 2012, No. 8-Z,
and Meetings of February 2, March 7 and April 11, 2012.)

NOTE: The Fish and Game Commission is exercising its powers under Section 202 of the Fish and Game Code as the following changes to the proposed regulations may not be available to the public for the full public comment period prior to adoption.

(NOTE: See Updated Informative Digest changes shown in **bold face type**.)

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 215, 220, 240, 315 and 316.5, of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 205, 206, 215 and 316.5 of said Code, proposes to amend Section 7.50, Title 14, California Code of Regulations, relating to Klamath-Trinity Rivers salmon sport fishing.

Updated Informative Digest/Policy Statement Overview

The Klamath River System, which consists of the Klamath River and Trinity River basins, is managed through a cooperative system of State, Federal, and Tribal management agencies. Salmonid regulations are designed to meet natural and hatchery escapement needs for salmonid stocks, while providing equitable harvest opportunities for ocean recreational, ocean commercial, river recreational and Tribal fisheries.

The Pacific Fishery Management Council (PFMC) is responsible for adopting recommendations for the management of recreational and commercial ocean salmon fisheries in the Exclusive Economic Zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. When approved by the Secretary of Commerce, these recommendations are implemented as ocean salmon fishing regulations by the National Marine Fisheries Service (NMFS).

The California Fish and Game Commission (Commission) adopts regulations for the ocean salmon recreational (inside three miles) and the Klamath River System recreational fisheries which are consistent with federal fishery management goals.

Klamath River Fall-Run Chinook

Klamath River fall-run Chinook salmon (KRFC) harvest allocations and natural spawning escapement goals are established by the PFMC. The KRFC harvest allocation between Tribal and non-Tribal fisheries is based on court decisions and allocation agreements between the various fishery representatives.

The 2012 KRFC in-river recreational fishery allocation recommended by the PFMC is currently unknown. All proposed closures for adult KRFC are designed to ensure sufficient spawning escapement in the Klamath basin and equitably distribute harvest while operating within annual allocations.

Klamath River Spring-Run Chinook

The Klamath River System also supports Klamath River spring-run Chinook salmon (KRSC). Naturally produced KRSC are both temporally and spatially separated from KRFC in most cases.

Presently, KRSC stocks are not managed or allocated by the PFMC. The in-river recreational fishery is managed by general basin seasons; daily bag limit and possession limit regulations.

KRFC Allocation Management

The 2011 allocation for the Klamath River System recreational harvest was 7,900 adult KRFC. Preseason stock projections of 2012 adult KRFC abundance will not be available from the PFMC until March 2012. The 2012 basin allocation will be recommended by the PFMC in April 2012 and presented to the Commission for adoption prior to its April 2012 meeting.

For public notice requirements, the Department recommends the Commission consider an allocation range of 0 – 40,000 adult KRFC in the Klamath River basin for the river recreational fishery.

Current Recreational Fishery Management

The KRFC in-river recreational harvest allocation is divided into geographic areas and harvest is monitored under real time sub-quota management. KRSC in-river recreational harvest is managed by general season, daily bag limit, and possession limit regulations.

The daily bag and possession limits apply to both stocks within the same sub-area and time period.

Proposed Changes

The Department is proposing the following changes to current regulations:

No changes are proposed for the general (KRSC) opening and closing season dates.

KRFC Season, Bag Limit, and Possession Limit

For public notice requirements, a range of KRFC bag and possession limits are proposed until the 2012 basin quota is adopted. As in previous years, no retention of adult KRFC salmon is proposed for the following areas, once the sub quota has been met.

The proposed open seasons and range of bag limits for KRFC salmon stocks are as follows:

1. Klamath River - August 15 to December 31
2. Trinity River - September 1 to December 31
3. Bag Limit - [0 - 4] Chinook salmon - only [0 - 3] fish over 22 inches total length until sub quota is met, then 0 fish over 22 inches total length.

The possession limit is proposed as a range of [0 - 9] Chinook salmon of which [0 – 6] over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

The benefits of the proposed regulations are in concurrence with Federal law, sustainable management of Klamath River basin salmon resources, and promotion of businesses that rely on recreational salmon fishing in the Klamath River basin.

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business and government.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. No other State agency has the authority to promulgate sport fishing regulations.

The Pacific Fishery Management Council (PFMC) presented Recreational Salmon Management Alternatives and adopted a recommended harvest allocation range of 66,400 to 71,200 adult Klamath River Fall Chinook (KRFC) for the recreational fishery in the Klamath River System (Preseason Report II). The Department concurs with this allocation range and recommends that the Commission adopt the PFMC'S KRFC recreational harvest quota range and use 71,200 as the maximum adult KRFC for the basin quota, and based on this allocation maximum, adjust the sub quotas for the four geographic sub quota areas according to the percentages outlined in the Initial Statement of Reasons, adopt a daily bag limit of 4 salmon over 22 inches when the take of salmon over 22 inches is allowed, and adopt a possession limit of 8 salmon over 22 inches when the take of salmon over 22 inches is allowed.

In subsection 7.50(b)(91.1)(E)6.e., 2102 is changed to 2012 to reflect the current year.

No other changes to the orginially proposed language are proposed.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a teleconference originating in the Fish and Game Commission conference room, 1416 Ninth Street, Suite 1320, Sacramento, California, on Wednesday, April 18, 2012, at 10:00 a.m., or as soon thereafter as the matter may be heard. Interested persons may also participate at the following locations: Department of Fish and Game (DFG)- Santa Barbara Field Office and Laboratory, 1933 Cliff Drive, Suite 9, Santa Barbara, CA; DFG- Inland Deserts Region, 3602 Inland Empire Boulevard, Suite C-220, Ontario, CA; and DFG- Monterey Regional Office, 20 Lower Ragsdale Drive, Suite 100, Monterey, CA. Written comments may be submitted at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on April 17, 2012. All comments must be received no later than April 18, 2012, at one of the teleconference hearing locations listed above. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Sonke Mastrup, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to Sonke Mastrup or Sherrie Fonbuena at the preceding address or phone number.
Mr. Curtis Milliron, Department of Fish and Game, Northern Region, telephone

(530) 225-2280, has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations are projected have an unknown impact on the net revenues to businesses servicing sport fishermen. This is not likely to affect the ability of California businesses to compete with businesses in other states. The preservation of Klamath River salmon stocks is necessary for the success of lower and upper Klamath River Basin businesses which provide goods and services related to fishing. The proposed changes are necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California. The proposed regulations range from no salmon fishing on

adult Chinook salmon (>22 inches) in 2012 to a normal Klamath River Basin salmon season; therefore, the potential impacts range from 0 to 47 jobs. However, due to the fact that sport fishing for Chinook salmon will be allowed for grilse fall Chinook salmon, impacts to businesses will be less severe than under a complete closure of fishing. The impacted businesses are generally small businesses employing few individuals and, like all small businesses, are subject to failure for a variety of causes. Additionally, the long-term intent of the proposed action is to increase sustainability in fishable salmon stocks and, subsequently, the promotion and long-term viability of these same small businesses.

The Commission anticipates benefits to the health and welfare of California residents. Providing opportunities for a salmon sport fishery encourages consumption of a nutritious food.

The Commission does not anticipate any non-monetary benefits to worker safety.

The Commission anticipates benefits to the environment by the sustainable management of California's salmon resources.

(c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

(e) Nondiscretionary Costs/Savings to Local Agencies:

None.

(f) Programs Mandated on Local Agencies or School Districts:

None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code:

None.

(h) Effect on Housing Costs:

None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Date: April 11, 2012

Sonke Mastrup
Executive Director

Regulatory Language

KEY:

Language originally proposed to be added is shown in single underline format.

Language originally proposed to be deleted is shown in ~~strikeout format~~.

Language originally proposed to be added and now proposed to be deleted is shown in ~~single underline/double strikeout format~~.

Language newly proposed to be added is shown in double underline format.

Language newly proposed to be deleted is shown in ~~double strikeout format~~.

Subsection (b)(91.1) of Section 7.50 is amended to read:

(91.1) Anadromous Waters of the Klamath River Downstream of Iron Gate Dam (Lower Klamath River Basin). The regulations in this subsection apply only to waters of the Klamath River system which are accessible to anadromous salmonids. They do not apply to waters of the Klamath River which are inaccessible to anadromous salmon and trout, for example, portions of the Klamath River system upstream of Iron Gate Dam, portions of the Trinity River system upstream of Lewiston Dam, and the Shasta River and tributaries upstream of Dwinnel Dam. Fishing in these waters is governed by the General Regulations for non-anadromous waters of the North Coast District (see Section 7.00(a)(5)).

(A) Hook and Weight Restrictions.

1. Only barbless hooks may be used. (For definitions regarding legal hook types, hook gaps and rigging see Chapter 2, Article 1, Section 2.10.)

2. During closures to the take of adult salmon, anglers shall not remove any adult Chinook salmon from the water by any means, such as by dragging the fish on shore or using a net.

(B) General Area Closures.

1. No fishing is allowed within 750 feet of any Department of Fish and Game fish-counting weir.

2. No fishing is allowed from the Ishi Pishi Falls road bridge upstream to and including Ishi Pishi Falls from August 15 through December 31. EXCEPTION: members of the Karuk Indian Tribe listed on the current Karuk Tribal Roll may fish at Ishi Pishi Falls using hand-held dip nets.

3. No fishing is allowed from September 15 through December 31 in the Klamath River within 500 feet of the mouths of the Salmon, the Shasta and the Scott rivers.

(C) Klamath River Basin Possession Limits.

1. Trout Possession Limits.

a. The brown trout possession limit is 10 brown trout.

b. The hatchery trout or hatchery steelhead possession limits are as follows:

(i) Klamath River - 1 hatchery trout or hatchery steelhead.

(ii) Trinity River - 4 hatchery trout or hatchery steelhead.

2. Chinook Salmon Possession Limits.

a. Klamath River downstream of the Highway 96 bridge at Weitchpec from January 1 to August 14 and the Trinity River downstream of the Old Lewiston Bridge to the confluence of the South Fork Trinity River from January 1 to August 31.

(i) 2 Chinook salmon.

b. Klamath River from August 15 to December 31 and Trinity River from September 1 to December 31.

(i) 9 ~~[0-6]~~ [0-8] Chinook salmon. No more than 6 ~~[0-6]~~ [0-8] Chinook salmon over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

(D) Klamath River Basin Chinook Salmon Quotas. The Klamath River fall Chinook salmon take is regulated using quotas. Accounting of the tribal and non-tribal harvest is closely monitored from

August 15 through December 31 each year. These quota areas are noted in subsection (b)(91.1)(E) with "Fall Run Quota" in the Open Season and Special Regulations column.

1. Quota for Entire Basin.

The ~~2014~~ 2012 Klamath River Basin quota is ~~7,900~~ ~~[0-40,000]~~ [0-71,200] Klamath River fall Chinook salmon over 22 inches total length. The department shall inform the commission, and the public via the news media, prior to any implementation of restrictions triggered by the quotas. (NOTE: A department status report on progress toward the quotas for the various river sections is updated weekly, and available at 1-800-564-6479.)

2. Sub Quota Percentages.

a. The sub quota for the Klamath River upstream of the Highway 96 bridge at Weitchpec and the Trinity River is 50% of the total Klamath River Basin quota.

(i) The sub quota for the Klamath River from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 bridge at Weitchpec is 17% of the total Klamath River Basin quota.

(ii) The sub quota for the Trinity River main stem downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat is 16.5% of the total Klamath River Basin quota

(iii) The sub quota for the Trinity River main stem downstream of the Denny Road bridge at Hawkins Bar to the confluence with the Klamath River is 16.5% of the total Klamath River Basin quota

b. The sub quota for the Lower Klamath River downstream of the Highway 96 bridge at Weitchpec is 50% of the total Klamath River Basin quota.

(i) The sub quota for the Spit Area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth) is 15% of the Lower Klamath River sub quota taken downstream of the Highway 101 bridge. (Note: This provision only applies if the department projects that the total Klamath River Basin quota will be met.)

(E) Klamath River Basin Open Seasons and Bag Limits. All anadromous waters of the Klamath River Basin are closed to all fishing for all year except those areas listed in the following table. Bag limits are for trout and Chinook salmon in combination unless otherwise specified.

Body of Water	Open Season and Special Regulations	Daily Bag Limit
1. Bogus Creek and tributaries.	Fourth Saturday in May through August 31. Only artificial lures with barbless hooks may be used.	0
2. Klamath River main stem from 3,500 feet downstream of Iron Gate Dam to mouth.		
a. Klamath River from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 bridge at Weitchpec.	January 1 to August 14.	0 Chinook salmon 1 hatchery trout or hatchery steelhead**
	Fall Run Quota 1,343 [0-6,800] <u>[0-12,104]</u> Chinook Salmon August 15 to December 31, 2014 <u>2012</u> .	3 <u>[0-4]</u> Chinook salmon - only 2 <u>[0-4]</u> fish over 22 inches total length until sub quota is met, then 0 fish over 22 inches total length. 1 hatchery trout or hatchery steelhead**
Fall Run Quota Exception: Chinook salmon over 22 inches total		

	length may be retained from 3,500 feet downstream of Iron Gate Dam to the Interstate 5 bridge when the department determines that the adult fall-run Chinook salmon spawning escapement at Iron Gate Hatchery exceeds 8,000 fish. Daily bag and possession limits specified for fall-run Chinook salmon apply during this exception.	
b. Klamath River downstream of the Highway 96 bridge at Weitchpec.	January 1 to August 14.	2 Chinook salmon 1 hatchery trout or hatchery steelhead**
	Fall Run Quota 3,950 [0-20,000] [0-35,600] Chinook Salmon August 15 to December 31, 2011 <u>2012</u> .	3 [0-4] Chinook salmon - only 2 [0-4] fish over 22 inches total length until sub quota is met, then 0 fish over 22 inches total length. 1 hatchery trout or hatchery steelhead**
	Fall Run Quota Exception: Spit Area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth). This area will be closed to all fishing after 15% of the Lower Klamath River sub quota has been met.	
3. Salmon River main stem, main stem of North Fork downstream of Sawyer's Bar bridge, and main stem of South Fork downstream of the confluence of the East Fork of the South Fork.	November 1 through February 28.	0
4. Scott River main stem downstream of the Fort Jones-Greenville bridge to the confluence with the Klamath River.	Fourth Saturday in May through February 28.	0
5. Shasta River main stem downstream of the Interstate 5 bridge north of Yreka to the confluence with the Klamath River.	Fourth Saturday in May through August 31 and November 16 through February 28.	0
6. Trinity River and tributaries.		
a. Trinity River main stem from 250 feet downstream of Lewiston Dam to the Old Lewiston Bridge.	April 1 through September 15. Only artificial flies with barbless hooks may be used.	0
b. Trinity River main stem downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat.	January 1 to August 31.	2 Chinook salmon 5 brown trout 2 hatchery trout or hatchery steelhead**
	Fall Run Quota 1,304 [0-6,600] [0-11,748] Chinook Salmon	3 [0-4] Chinook salmon - only 2 [0-3] [0-4] fish over

	September 1 through December 31, 2011 <u>2012</u> .	22 inches total length until sub quota is met, then 0 fish over 22 inches total length. 5 brown trout 2 hatchery trout or hatchery steelhead**
	Fall Run Quota Exception: Chinook salmon over 22 inches total length may be retained downstream of the Old Lewiston Bridge to the mouth of Indian Creek when the department determines that the adult fall-run Chinook salmon spawning escapement at Trinity River Hatchery exceeds 4,800 fish. Daily bag and possession limits specified for fall-run Chinook salmon apply during this exception.	
c. Trinity River main stem downstream of the Highway 299 West bridge at Cedar Flat to the Denny Road bridge at Hawkins Bar.	January 1 through August 31.	2 Chinook salmon 5 brown trout 2 hatchery trout or hatchery steelhead**
	September 1 through December 31.	Closed to all fishing.
d. New River main stem downstream of the confluence of the East Fork to the confluence with the Trinity River.	September 15 through November 15. Only artificial lures with barbless hooks may be used.	0
e. Trinity River main stem downstream of the Denny Road bridge at Hawkins Bar to mouth of the South Fork Trinity River.	January 1 to August 31.	2 Chinook salmon 5 brown trout 2 hatchery trout or hatchery steelhead**
	Fall Run Quota 1,303 [0-6,600] <u>[0-11,748]</u> Chinook Salmon September 1 through December 31, 2011 2102-2012 . This is the cumulative quota for subsections 6.e. and 6.f. of this table.	3 [0-4] Chinook salmon - only 2 [0-3] <u>[0-4]</u> fish over 22 inches total length until sub quota is met, then 0 fish over 22 inches total length. 5 brown trout 2 hatchery trout or hatchery steelhead**
f. Trinity River main stem downstream of the mouth of the South Fork Trinity River to the confluence with the Klamath River.	January 1 to August 31.	0 Chinook Salmon 5 brown trout 2 hatchery trout or hatchery steelhead**
	Fall Run Quota 1,303 [0-6,600] <u>[0-11,748]</u> Chinook Salmon September 1 through December 31, 2011 <u>2012</u> . This is the cumulative quota for subsections	3 [0-4] Chinook salmon - only 2 [0-3] <u>[0-4]</u> fish over 22 inches total length until sub quota is met, then 0 fish over 22 inches total

	6.e. and 6.f. of this table.	length. 5 brown trout 2 hatchery trout or hatchery steelhead**
g. Hayfork Creek main stem downstream of the Highway 3 bridge in Hayfork to the confluence with the South Fork Trinity River.	November 1 through March 31. Only artificial lures with barbless hooks may be used.	0
h. South Fork Trinity River downstream of the confluence with the East Fork of the South Fork Trinity River to the South Fork Trinity River bridge at Hyampom.	November 1 through March 31. Only artificial lures with barbless hooks may be used.	0
i. South Fork Trinity River downstream of the South Fork Trinity River bridge at Hyampom to the confluence with the Trinity River.	November 1 through March 31.	0 Chinook salmon 2 hatchery trout or hatchery steelhead**

* Wild Chinook salmon are those not showing a healed adipose fin clip and not showing a healed left ventral fin clip.

**Hatchery trout or steelhead are those showing a healed adipose fin clip (adipose fin is absent). Unless otherwise provided, all other trout and steelhead must be immediately released. Wild trout or steelhead are those not showing a healed adipose fin clip (adipose fin is present).

Note: Authority cited: Sections 200, 202, 205, 215, 220, 240, 315 and 316.5, Fish and Game Code. Reference: Sections 200, 202, 205, 206, 215 and 316.5, Fish and Game Code.

